



Matthew Zuker, Chairman
Craig W. Hiltz, Vice Chairman
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member

**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

DECISION - BOARD OF APPEALS CASE NO. 03-18

APPLICANT:
Norman Eibye

LOCATION OF PROPERTY INVOLVED:

62 Highland Street, Walpole, MA and shown on the Assessors Map 35 and Parcel 275, Zoning District: Residence B

APPLICATION:

A **Variance** under Section 6.B-1 of the Zoning Bylaw to allow a roof overhang with posts 29.5"ft. from the front setback, where thirty (30) ft. is needed, located at 62 Highland Street, Walpole, MA 02081.

On March 7, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Variance** for the relief requested.

The following members were present and voting:

Matthew Zuker, Chairman
Craig W. Hiltz, Vice Chairman
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
John Lee, Associate Member

VOTE OF THE BOARD:

A motion was made by Craig Hiltz and seconded by Robert Fitzgerald to grant a Variance from Section 6.B-1. of the Zoning Bylaw to allow a roof overhang with posts 29.5"ft. from the front setback, where thirty (30) ft. is needed, located at 62 Highland Street, Walpole, MA 02081

The vote was 5-0-0 in favor (Zuker, Hiltz, Coffey and Fitzgerald, Murphy voting); therefore the application for a Variance under Section 6.B-1 is hereby granted, subject to the following conditions:

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CONDITIONS:

1. The roof overhang shall be located and constructed as shown on the plans submitted at the Public Hearing on March 7, 2018
2. There shall be no further construction to the front of the house.
3. The front porch shall not be enclosed
4. There shall be no further relief granted.

REASONS FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements for the granting of a Variance, as per the following:

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The structure located at 62 Highland Street, Walpole, MA 02081 has a unique shape due to the structure having been built in approximately 1956. In its current location, the structure is set at an angle and is closer in proximity to the front yard setback compared to other properties in the immediate area. It would create a financial hardship to the Applicant to re-construct the home in any other way in order to comply with the setbacks- which would include completely altering the house. The granting of the Variance will prevent the complete reconstruction of the front of the house, along with preventing the creation of a financial hardship to the Applicant. Moreover, the proposed project enhances the safety and security of the building during inclement weather when accessing the dwelling from the front door.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The current house is an architecturally tall and flat structure, adding additional architectural features will improve the aesthetics of the building. Also, the building is in harmony with the character of the neighborhood, and will remain in harmony with the neighborhood. Furthermore, there was no opposition from abutters or any of the public. The de-minimis nature of the relief requested -- all of six inches from the required setback -- poses no detriment to the public good.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The addition to the posts in an open matter does not limit the visibility/visual openness of the structure from the street due to its open construction, and with the conditions imposed; there will not be further derogation from the bylaw.

Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

* * * * *

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

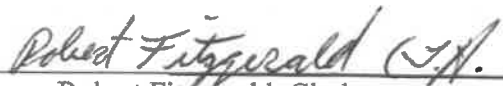
Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"...No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

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MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF C. 40A AND SHALL BE FILED WITHIN TWENTY (20) DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk

RF/am

cc: Town Clerk Engineering Planning Board Applicant
Board of Selectmen Building Inspector Conservation Commission Abutters

This decision was made on March 7, 2018 and filed with the Town Clerk on March 19, 2018.